

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NIPPON SHINYAKU, LTD.,

Plaintiff,

v.

SAREPTA THERAPEUTICS, INC.,

Defendant.

C.A. No. 21-1015-GBW

SAREPTA THERAPEUTICS, INC. and  
UNIVERSITY OF WESTERN AUSTRALIA,

Defendant/Counter-Plaintiff,

v.

NIPPON SHINYAKU CO., LTD.  
and NS PHARMA, INC.,

Plaintiff/Counter-Defendants.

**SPECIAL MASTER ORDER #4**

Having reviewed the parties' joint discovery dispute letter dated August 8, 2023 and email correspondence regarding the parties' availability for a hearing, the Special Master orders as follows:

(1) The Special Master understands that the six disputes listed below are currently outstanding for handling by the Special Master. For disputes 1 through 4, the Special Master would like for Plaintiff Nippon Shinyaku, Ltd. ("Nippon Shinyaku") to proceed as the moving party. The Special Master would like for Defendant Sarepta Therapeutics Inc. ("Sarepta") to proceed as the moving party for disputes 5 and 6.

<b>DISPUTES</b>	<b>MOVANT</b>
1. Whether Sarepta must designate a witness in response to Nippon Shinyaku's Rule 30(b)(6) Topics Nos. 56 (generally relating to Sarepta's average sales price reports), 67 (generally relating to Sarepta's understanding of Vyondys53's commercial success), and 93 (generally relating to Sarepta's knowledge of Interference No. 106,007).	Nippon Shinyaku
2. Whether Sarepta, in the wake of clawing back information regarding the units of its exon 51 and exon 45 products, must provide Nippon Shinyaku information sufficient to show the relative amount of free drug it provides for the accused product Vyondys53, compared with its other exon skipping products.	Nippon Shinyaku
3. Whether University of Western Australia ("UWA") must designate a witness in response to Nippon Shinyaku's Rule 30(b)(6) Topics 9, 13, 14, 16, 21, 24, 25, 26, 27, 29, 31, 32, 33, 34, 40, 41, 43, 44, 45, 46, 47, 48, 50, 51, 52, 57, 58, and 59.	Nippon Shinyaku
4. Whether UWA must conduct reasonable searches for and produce documents specifically in response to Nippon Shinyaku's requests for production.	Nippon Shinyaku
5. Whether Nippon Shinyaku should be ordered to produce (i) a Rule 30(b)(6) witness to provide testimony on three research reports in Nippon Shinyaku's custody (NS00102924-987, NS00102988-3060, NS000103061-110, collectively the "CERI Reports") and (ii) all documents relating to the CERI Reports and any correspondence within Nippon Shinyaku, between Nippon Shinyaku and the Chemical Evaluation and Research Institute, and between Nippon Shinyaku and any other entity or individual, regarding the CERI Reports.	Sarepta
6. Whether Nippon Shinyaku should be ordered to produce a witness to cure the deficiency of Mr. Naoki Watanabe's testimony with respect to Sarepta's Rule 30(b)(6) Topic No. 31, relating to the first awareness by Nippon Shinyaku and/or	Sarepta

National Center of Neurology and Psychiatry of Popplewell et al., Neuromuscul Disord (2010) 20:102-10 and U.S. Patent Publication No. 2010/0168212.	
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(2) The Special Master will hold a hearing on the above-listed disputes on August 24, 2023 at 3:30 p.m. Eastern. The hearing will be held via Zoom videoconference. The Special Master will provide a link to counsel for the videoconference hearing. A court reporter will be present.

(3) In preparation for the August 24, 2023 hearing, the parties shall submit briefing as follows:

a. Each movant shall serve a single opening letter brief of no more than ten (10) pages. That is, Nippon Shinyaku will serve a single opening letter brief on disputes 1 through 4, and Sarepta will serve a single opening letter brief on disputes 5 and 6. Each side's opening letter brief shall be emailed to the Special Master and all counsel of record no later than 5 p.m. Eastern on August 15, 2023.

b. Each side may serve a single answering letter brief of no more than ten (10) pages. Each side's answering letter brief shall be emailed to the Special Master and all counsel of record no later than 5 p.m. Eastern on August 21, 2023.

(4) Pursuant to the Order Appointing Special Master (D.I. 219 at ¶ 3a), by 5 p.m. Eastern on August 15, 2023, each side shall serve a formal motion for the disputes on which that side is the moving party. That is, Nippon Shinyaku will serve a motion on disputes 1 through 4, and Sarepta will serve a motion on disputes 5 and 6. Each side's motion should be no more than two pages, preferably a single page. Each side shall attach a proposed order to its motion setting forth the precise relief sought.

IT IS SO ORDERED.

Dated: August 9, 2023

*Monte T. Squire*

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Special Master Monté T. Squire